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March 6, 2024

Via ECF

Hon. Kenneth Karas, United States District Judge
The Hon. Charles L. Brieant Jr. Federal Building and United States Courthouse
300 Quarropas St.
White Plains, NY 10601

Re: *Anderson, et al. v. First Transit, Inc., et al.*, No. 23 Civ. 6826

Dear Judge Karas:

We represent the Plaintiffs in this action and write jointly with counsel for Defendants First Transit, Inc. and Adam Moore (the “First Transit Defendants”) to request that the Court deny the pending motion to dismiss as moot, without prejudice to renewal, and so-order the parties’ stipulated briefing schedule for the First Transit Defendants’ anticipated motion to dismiss the Amended Complaint.

The First Transit Defendants moved to dismiss the original Complaint on February 9, 2024. ECF No. 35. In response, on February 26, 2024, Plaintiffs filed an Amended Complaint as of right pursuant to Federal Rule of Civil Procedure 15(a)(1)(B). “[W]hen a plaintiff properly amends her complaint after a defendant has filed a motion to dismiss that is still pending, the district court has the option of either denying the pending motion as moot or evaluating the motion in light of the facts alleged in the amended complaint.” *Pettaway v. Nat'l Recovery Sols., LLC*, 955 F.3d 299, 303–04 (2d Cir. 2020).

Counsel for Plaintiffs and the First Transit Defendants have conferred and jointly propose that the Court deem the pending motion to dismiss moot and set the following briefing schedule for the First Transit Defendants’ anticipated motion to dismiss the Amended Complaint:

- Moving papers to be filed on or before April 5, 2024
- Opposition papers to be filed on or before April 19, 2024
- Reply papers, if any, to be filed on or before April 29, 2024

The proposed schedule would extend the existing deadline for the First Transit Defendants to respond to the Amended Complaint, which would otherwise be March 11, 2024 under Rule 15(a)(3). There have been no previous requests to extend the deadline to respond to the Amended Complaint; the Court previously granted the First Transit Defendants’ motion to extend their time to move for dismissal of the original Complaint, *see* ECF No. 34.

Alanna Kaufman* • Douglas E. Lieb† • David A. Lebowitz • Alison Frick*

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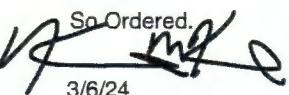
We thank the Court for its attention to this request and are available to address any questions or concerns that may arise.

The briefing schedule is approved. The Motion to Dismiss filed on 2/9/24 is denied without prejudice and the Clerk is respectfully requested to terminate the Motion. (Doc. # 35.)

Respectfully submitted,

/s/ David A. Lebowitz

David A. Lebowitz


So Ordered.
3/6/24

CC. All Counsel of Record (via ECF)